

Appendix I: Recommendations for Local Jurisdictions

HB 2727 requires specific recommendations for expanding early learning and care facilities specifically for the five cities or counties that have representatives on the work group. In developing these recommendations, the project team conducted individual meetings with each jurisdiction's staff to review their existing code and identify specific areas requiring updates to align with current statute. These consultations also provided valuable insights into which policy changes and recommendations could be supported within each jurisdiction's political and administrative context.

DATE:	October 21, 2024
TO:	Clatsop County; Gail Henrikson
FROM:	ECOnorthwest
SUBJECT:	Clatsop County – HB 2727 Final Local Recommendations

HB 2727 requires the project team to develop specific recommendations for expanding early learning and care facilities in the five jurisdictions from which work group members are selected. These recommendations were developed based on conversations with local government staff and a high-level audit of their respective codes. It's important to note that while the bill requires the creation of these recommendations, their implementation is entirely voluntary for the jurisdictions involved.

Clatsop County contains a substantial amount of forest land along with coastal land along the Pacific Ocean on its western border and the Columbia River along its northern border. Within some communities there is a mix of commercial, industrial, and residential uses. Clatsop County provides zoning areas outside of urban growth boundaries and city limits, including rural service areas.

- ◆ In 2022, Clatsop County worked with DLCDC to coordinate local recommendations for Clatsop County to comply with **ORS 329A.440** so much of their code has been updated related to child care.

Child Care Centers in Residential Zones

- ◆ Clatsop County currently allows child care centers in residential zones as a conditional use. The county noted that this is a useful tool for being able to evaluate the adequacy of infrastructure, as many of the residential areas are on septic systems, roads may be unpaved or substandard in size in some areas. However, there

is likely an opportunity to evaluate certain residential areas and/or zones where child care centers could be more broadly allowed by right.

- ◆ Recommendation: Make child care centers permitted uses in specified residential areas and/or zones, subject to meeting established criteria. Evaluation criteria for where to make this allowance might include areas where there are existing community facilities (schools, parks, libraries), nearby employment centers, higher presence of younger families, and/or adequate road and sidewalk conditions.

Permit Process and Fees

- ◆ A conditional use permit fee for a Type II process, according to the County's 2023-2024 fee schedule, is \$1,200, and \$1,500 for a Type IIa or Type III. An applicant can apply to the Board of Commissioners to waive this fee.
- ◆ Recommendation: Waive or reduce the fee for conditional use permits for lower-income, small business child care providers outright without requiring an application to the Board to waive the fee.

The County has not received many applications for child care businesses for either in-home or centers in the last several years. However, as more money becomes available for child care across Oregon, streamlined processes to get facilities permitted and opened will be necessary.

- ◆ Recommendation: Offer an expedited permit review process for both in-home and child care centers.

Building Permits

Clatsop County currently requires a building permit for in-home child care.

- ◆ Recommendation: Eliminate the requirement for a building permit for in-home child care when no alterations are proposed to the dwelling; instead require only an inspection to ensure compliance with the Residential Oregon Structural Specialty Code Section 420.12.¹²⁰

Tenant Improvement Program

If the state provides funding for local grants that provide targeted investment in the development of child care facilities, Clatsop County could set up a local program to administer grant funds to child care providers.

- ◆ Recommendation: Implement a local tenant improvement grant program that offers funding to child care providers to help cover the cost of renovating or upgrading facilities to meet building code, zoning code or licensing requirements.

¹²⁰ A building permit should still be required for any proposed structural alterations or when converting spaces not originally designed for occupancy (e.g., unfinished basements or attics) into child care areas.

DATE: October 21, 2024
TO: City of Coos Bay; Chelsea Schnabel
FROM: EConorthwest
SUBJECT: City of Coos Bay – HB 2727 Final Local Recommendations

HB 2727 requires the project team to develop specific recommendations for expanding early learning and care facilities in the five jurisdictions from which work group members are selected. These recommendations were developed based on conversations with local government staff and a high-level audit of their respective codes. It's important to note that while the bill requires the creation of these recommendations, their implementation is entirely voluntary for the jurisdictions involved.

Definitions

The City of Coos Bay has not fully updated its code based on requirements under ORS 329.A.440, so the city's thresholds for registered family child care and certified family child care are not aligned with definitions found in state law.

- ◆ Recommendation: Revise existing definitions related to child care to align with those found in ORS 329.A.440, provided below:
 - Child care center” means a child care facility, other than a family child care home, that is certified under [ORS 329A.280 \(When certification required\)](#).
 - “Family child care home” means a child care facility in a dwelling that is caring for not more than 16 children and is certified under [ORS 329A.280 \(When certification required\)](#) or is registered under [ORS 329A.330 \(Registration requirements\)](#)

Permitted Use Table

- ◆ Remove “day care for <13 children” from the residential and commercial zones permitted use tables and replace with term that encompasses both registered family and certified family child care (up to 16 children)
- ◆ Amend permitted use table to allow certified child care centers by right in all commercial zones, including WH, HP, and the UPD zones.
- ◆ Amend permitted use table to allow certified child care centers by right in all industrial zones¹²¹, including the MP zone.

¹²¹ With the exception of zones designated for heavy industrial uses which is assumed to be the W-I zone.

Home Occupation Permits

- ◆ Remove the requirement for a home occupation permit for in-home child care in residential zones.

Parking

The City of Coos Bay requires one off-street parking spot per employee.

- ◆ Reduce or eliminate the minimum parking standard.

Suitable Child Care Spaces

- ◆ Identify properties and spaces with co-location potential with child care (e.g., churches, schools, or community centers) to submit to a broader tracking system used to pair providers with suitable spaces for new or expanded businesses.



DATE: December 2, 2024
TO: City of Bend; Brad Mandal & Michelle Patrick
FROM: EConorthwest
SUBJECT: City of Bend – HB 2727 Final Local Recommendations

◆
HB 2727 requires the project team to develop specific recommendations for expanding early learning and care facilities in the five jurisdictions from which work group members are selected. These recommendations were developed based on conversations with local government staff and a high-level audit of their respective codes. It's important to note that while the bill requires the creation of these recommendations, their implementation is entirely voluntary for the jurisdictions involved.

- ◆ The City of Bend implements regulations that comply with **ORS 329A.440**, so much of their code has been updated related to child care. Bend has also waived transportation SDCs for child care and removed parking mandates citywide, offering a best practice example for other local jurisdictions in Oregon. Below are some additional recommendations the City of Bend could consider for continuing their efforts to reduce barriers for child care providers opening new businesses or expanding existing ones.

Child Care Centers in Residential Zones

- ◆ The city of Bend currently allows child care centers in residential zones as a conditional use. However, there may be an opportunity to evaluate certain residential areas and/or zones where child care centers could be more broadly allowed by right.
- ◆ Recommendation: Make child care centers permitted uses in all residential zones, subject to meeting established criteria. Evaluation criteria for this use might include sidewalk construction, compliant bike parking, compliant vehicular access, and adequate public utilities.

Pre-Application Process

Bend does not currently charge a fee for pre-application meetings according to the city's 2024-2025 fee schedule; however, Bend is in the process of re-evaluating its pre-application practices, and fees for pre-application meetings may be assessed in the future. The city offers these as optional meetings for applicants and developers; they are not required. However, in conversations with staff, attendance of those meetings by the fire official is not always consistent or specifically requested.

- ◆ Recommendation: Implement a policy of requiring the fire official and building official to attend every pre-application meeting for in-home child care and child care centers to ensure providers understand the requirements related to fire safety.

- ◆ Recommendation: Suggest all prospective child care providers request a pre-application conference option early in their development process.

Tenant Improvement Program

If the state provides funding for local grants that provide targeted investment in the development of child care facilities, the City of Bend could set up a local program to administer grant funds to child care providers.¹²²

- ◆ Recommendation: Implement a local tenant improvement grant program that offers funding to child care providers to help cover the cost of renovating or upgrading facilities to meet building code, zoning code or licensing requirements.

Resident Requirements for In-Home Child Care

Both the planning and building department hold requirements that a resident must live in a dwelling with an in-home child care business. However, state statute - ORS 329A.440 - deems a family child care facility itself to be a residential use. Staff with the city of Bend have interpreted this to mean that since a dwelling is defined as a space intended for living, a building used solely for child care (with no resident) must be classified as an E (Educational) or I (Institutional) occupancy under the building code. This creates uncertainty about whether local requirements for occupancy align with state statute.

- ◆ Recommendation: Remove planning and building requirements that require someone to live in the family child care home. Note that the City has requested state determinations on building and land use in this matter, specifically requesting that Oregon Building Codes Division issue a statewide interpretation clarifying whether occupancy of the dwelling is required to meet ORS 329A.440's requirements.

¹²² The city could also opt to source grant funds locally, provided the state does not create a funding source.

DATE: December 2, 2024
TO: Benton County; Petra Schuetz
FROM: EConorthwest
SUBJECT: Benton County – HB 2727 Final Local Recommendations

HB 2727 requires the project team to develop specific recommendations for expanding early learning and care facilities in the five jurisdictions from which work group members are selected. These recommendations were developed based on conversations with local government staff and a high-level audit of their respective codes. It's important to note that while the bill requires the creation of these recommendations, their implementation is entirely voluntary for the jurisdictions involved.

Definitions

Benton County has not fully updated its code based on requirements under ORS 329.A.440, so the county's thresholds for registered family child care and certified family child care are not aligned with definitions found in state law.

- ◆ Recommendation: Revise existing definitions related to child care to align with those found in ORS 329.A.440, provided below.
 - Child care center” means a child care facility, other than a family child care home, that is certified under [ORS 329A.280 \(When certification required\)](#).
 - “Family child care home” means a child care facility in a dwelling that is caring for not more than 16 children and is certified under [ORS 329A.280 \(When certification required\)](#) or is registered under [ORS 329A.330 \(Registration requirements\)](#)

Permitted Use Table

- ◆ Remove “day care for <13 children” from the permitted use table and replace with term that encompasses both registered family and certified family child care (up to 16 children)
- ◆ Removed the 4,000 square foot maximum for in-home child care facilities in the RC and VC zones.
- ◆ Amend permitted use table to allow certified child care centers by right in all commercial zones, including UC, PC, RC, VC, and P zones.¹²³
- ◆ Amend permitted use table to allow certified child care centers by right in all industrial zones¹²⁴, including UI, PLI and RI zones.

¹²³ Day care centers are already allowed by right in the RSC zone.

¹²⁴ With the exception of zones designated for heavy industrial uses.

Parking

Benton County currently required two off-street parking spots per teacher.

- ◆ Reduce or eliminate the minimum parking standard.
- ◆ Consider exemptions for small in-home facilities (e.g., those with 10 or fewer children) from additional parking requirements beyond what's typical for a single-family home
- ◆ Consider allowing facilities to meet parking requirements with on-street parking, where available.
- ◆ Permit providers to implement staggered drop-off and pick-up times to reduce simultaneous parking needs.
- ◆ Allow for parking requirement variances based on individual site conditions and constraints. Consider factors such as lot size, street width, and proximity to other parking options.

Conditional Use Permits

- ◆ Increase the renewal timeframe from 2 years to a longer period, such as 5 or 10 years or base renewal frequency on the type of use or its potential impact.
- ◆ Allow for permit staff-level renewal without requiring a full review process for uses that have maintained compliance and haven't been the subject of violations or complaints.
- ◆ Replace the renewal process with less formal periodic reviews that don't jeopardize the continuation of the use unless significant issues are found.

DATE: December 2, 2024
TO: City of Portland; Chanel Horn and Suzan Poisner
FROM: ECOnorthwest
SUBJECT: City of Portland – HB 2727 Final Local Recommendations

HB 2727 requires the project team to develop specific recommendations for expanding early learning and care facilities in the five jurisdictions from which work group members are selected. These recommendations were developed based on conversations with local government staff and a high-level audit of their respective codes. It's important to note that while the bill requires the creation of these recommendations, their implementation is entirely voluntary for the jurisdictions involved.

- ◆ The City of Portland implements regulations that comply with **ORS 329A.440**, so much of their code has been updated related to child care. In 2023, the City eliminated parking mandates citywide. In addition, the City has recently consolidated development review staff from its various infrastructure bureaus into one single Permitting and Development department, which should help improve review timelines as well as the level of coordination among the city review team staff. Below are some additional recommendations the City of Portland could consider for continuing their efforts to reduce barriers for child care providers opening new businesses or expanding existing ones.

Conditional Use Modifications

Portland's zoning code triggers a conditional use modification review on sites with an existing conditional use¹²⁵. Since Portland removed minimum parking requirements for all uses citywide, the section of code that pertains to the removal of parking as a trigger for a conditional use modification review should be removed. This trigger has created challenges for child care businesses converting parking spaces into outdoor play areas, among other issues.

- ◆ Recommendation: Since parking mandates no longer exist, allow removal of parking areas on existing conditional use sites without a conditional use modification review.

¹²⁵ 815.040.B.h Proposals that alter the development of an existing conditional use. Alterations to the development on a site with an existing conditional use and reducing the boundary of a conditional use site may be allowed, require an adjustment, modification, or require a conditional use review, as follows: Remove parking spaces is allowed as follows: • On sites with 5 or more parking spaces, up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be removed; parking spaces removed to create accessible spaces as specified in the Oregon Specialty Code are exempt from this limitation; or • Up to 50 percent of the total number of existing parking spaces may be removed when the removal is for an outdoor shelter or housing that is affordable.

Pre-Application Process

Portland has two tiers of pre-application meetings. A “pre-application conference” is for projects that will need to go through a public hearing and is designed to set those projects up for successful hearings, such as a conditional use. This meeting requires attendance of all reviewing agencies and departments. The fee is \$7,994 and covers the cost of one meeting early in the process. The second tier is an “early assistance meeting”, which are not required for any applicants or permit processes. Applicants can request an early assistance meeting that includes only a city planner, or both a city planner and staff from other infrastructure bureaus, but building code reviewers do not attend these meetings, and the city notes that SDC estimates are not provided. There are two fees associated with early assistance, a meeting which costs \$1,677, or information in written form only (without a meeting) is \$1,390. The early assistance meeting could be missing key information from other departments or agencies and the fee is still high for child care providers, relative to other cities and counties who offer this service.

- ◆ Recommendation: Provide pre-application conference meetings, where all agencies and departments are required to attend and SDC estimates are provided, for child care providers at free or reduced cost.

Building Permits

City of Portland currently requires a building permit for in-home child care. The City is working to implement a simplified child care permit program for in-home child care that would only require an inspection, with a minimal fee to cover inspector’s time.

- ◆ Recommendation: Implement the simplified permit program for in-home child care when no alterations are proposed to the dwelling. Only require only a fire safety inspection to ensure compliance with the Residential Oregon Structural Specialty Code Section 420.12.¹²⁶¹²⁷

The City’s building permit review process includes a question asking if someone lives in the residence for in-home child care. While the building code language is silent on this matter, the city’s interpretation has been that a resident is required to live in the home in addition to the child care use. State statute - ORS 329A.440 - deems a family child care facility itself to be a residential use. Therefore, local requirements for a resident to be living in the home might be in conflict with the statute.

- ◆ Recommendation: Discontinue the practice of asking if someone lives in the family child care home during the permit review process.

¹²⁶ A building permit should still be required for any proposed structural alterations or when converting spaces not originally designed for occupancy (e.g., unfinished basements or attics) into child care areas.

¹²⁷ City of Portland staff mentioned this recommendation is potentially underway but not complete yet.

Nonconformance Upgrades

Nonconformance upgrades are triggered when a building or other development permit is submitted and the value of proposed alterations on a site exceed a specified dollar valuation. These upgrades often include things like parking lot landscaping or screening of refuse and recycling areas. During the COVID-19 pandemic, the city of Portland issued a temporary ordinance that no longer required daycares to make non-conforming site upgrades, potentially saving child care providers time and money on new projects. It also addressed some of the challenges that come with co-locating with other uses and eased tensions between tenants and landlords. The ordinance was temporary and has since expired, although the city extended the exemption until January 1, 2029 for housing.

- ◆ Recommendation: Create a permanent exemption for all day care and child care uses triggering nonconforming site upgrades.¹²⁸

Change in Occupancy

Seismic upgrades for a building are triggered if more than 1/3 of the floor area is changing to a higher hazard classification or if the occupant load increases by more than 149 occupants relative to the baseline occupancy of the building as of October 1, 2004, which typically occurs when moving to E or I-4 for child care centers. These upgrades can be costly for providers to comply with and limit the number of suitable, ready-to-go spaces for child care.

- ◆ Recommendation: Establish a grant program and/or connect child care providers with existing grant programs (such as the Business Oregon Child care Infrastructure grant) for seismic and fire protection system upgrades to existing commercial space for low-income providers, small or minority-owned child care businesses.

SDC and Frontage Improvement Waivers

System Development Charges (SDCs), particularly transportation SDCs and frontage improvement requirements often come as a surprise to child care providers. Many jurisdictions, including Portland, base fees on the number of “trips” generated by different uses established in the Institute of Transportation Engineers Trip Generation Manual. Fees are assessed if the new land use generates more trips than the previous land use; however, the manual lists child care as generating more trips than many other land uses¹²⁹ including

¹²⁸ Portland’s zoning code uses the term “daycare” which refers to commercial child care facilities and programs. In-home child care, including certified and registered family child care homes serving up to 16 children as defined in ORS 329A, are categorized under Household Living uses rather than Daycare uses. The exemption is intended to apply to all child care uses.

¹²⁹ Institute of Transportation Engineers Trip Generation Manual, Common Trip Generation Rates (11th Edition), Peak Hours for Daycare Center

private schools, medical clinics, and churches.¹³⁰ Frontage improvements may be triggered for similar reasons, but may be attached to building valuation, location of proposal, or other factors. The city does provide a number of exemptions and offers opportunities to re-evaluate SDCs or requirements if additional documentation is provided.

- ◆ Recommendation: Offer waivers or exemptions for transportation SDCs and frontage improvements for child care centers, especially those moving into existing buildings, and consider applying the waiver or exemption to new child care construction projects as well.

¹³⁰ Institute of Transportation Engineers Trip Generation Manual, Common Trip Generation Rates (11th Edition), Peak Hours for Daycare Center